

1 certain files provided to the Clark County of Nevada County Clerk's office and take judicial notice of
2 Forever Diamond's status as a fictitious business name of Allen. Attached as Exhibit "B" to Allen's
3 declaration filed concurrently herewith is the Certificate of Business: Fictitious Firm Name form filed
4 with the Clark County Recorder's Office on October 30, 2007. Also attached as Exhibit "B" is
5 "Forever Diamonds" Nevada business registration form.

6 FRE Rule 201 states that a court may take judicial notice of a fact that is not subject to
7 "reasonable dispute" in that the fact is either (1) generally known within the territorial jurisdiction of
8 the trial court or (2) capable of accurate and ready determination by resort to source whose accuracy
9 cannot reasonably be questioned. A court may take judicial notice of "matters of public record"
10 without converting a motion to dismiss into a motion for summary judgment. *MGIC Indem. Corp. v.*
11 *Weisman*, 803 F.2d 500, 504 (9th Cir.1986). Forever Diamond's status as a fictitious business name of
12 Allen is not subject to reasonable dispute and is easily verifiable by resort to the public records filed
13 with and maintained by the County Clerk's office of the Clark County, Nevada. As such, it is proper
14 for the Court to take judicial notice of the fact that Forever Diamond is a fictitious business name of
15 Allen.

16 Dated: June 19, 2008

Respectfully Submitted,

17
18 s/Timothy P. Dillon
19 Attorneys for Defendants,
20 Andra Leonard Allen and
21 Forever Diamonds
22 E-mail: tdillon@dillongerardi.com
23
24
25
26
27
28